upon the Company's overall financial standards and practices, and the committee's firm intent regarding those standards and practices.

The report's section on depreciation of the nonwasting assets is of the utmost significance in that it details the history of the entire problem beyond what can be brought out here in a few minutes. There is considerable history beyond that containde in the report to which I could also allude in support of the bill's purposes.

In response to the charges that the section of the bill concerning depreciation will subsidize foreign commerce or American shipping I will merely point out that H.R. 14311 simply restores the situation with regard to canal financing and tolls and depreciation to what it was in 1973 before the entirely unwarranted action of the Company in suddenly initiating a policy the law and the entire legislative history of the U.S. Congress indicated was prohibited.

I must also point out that the Company was not established as a profit making enterprise, but was intended to pay its own way—to at least break even. It has successfully done this until the past 4 years because of a rising number of transits and because of larger vessels upon which a higher percentage of the tolls fell. However, breaking even under the law excluded capital expenditures. Provision was made for congressional appropriations to take care of these. The appropriations would have been added to the net direct investment of the government in the canal with Company dividends payable to the Treasury out of unexpected profits to reduce that investment. Capital expenditures were not meant to be included in estimating costs that must be met by tolls and fees for other services.

Under the concept of breaking even, the Company for over two decades could well have, or perhaps should have, reduced tolls in view of its profits, requiring a lesser transit burden on canal users. I must restate the fact that U.S. Navy, Coast Guard, and other Government vessels for years have been paying higher tolls than would have been required had the Company met capital expenditures through appropriations. I do not condemn it for its financial successes. I want to make clear this bill is no bonanza for any canal user, be it the U.S. merchant marine, or foreign shipping, or the U.S. Navy.

In effect, the bill restores the pre-1974 status quo regarding depreciation in complete accordance with the Reorganization Act of 1950 which set up the Canal Company.

The administration begs the question in opposing the bill when it claims section 2 on depreciation will result in subsidizing international shipping companies using the Canal—of whom it says less than 8 percent are of U.S. registry. Why then, did the administration not point this out in the years before 1974 when the situation was precisely what this bill will restore it to?

Last, the administration finds fault with the bill's revocation of "the accepted accounting standards now in use which were established at the express suggestion of GAO and independent accounting firms."

GAO is but an arm of Congress. It is not Congress.

Congress makes the law, not GAO or independent, private accounting agencies. I have dealt with the Reorganization Act and the legislative history already. Let me further make it very clear that both GAO and the independent accounting firms referred to by the administration had reversed their own years-old positions on depreciation. Adoption of the so-called "accepted accounting standards," without authorizing legislation, was unacceptable to both the GAO and those independent firms which counseled the Panama Canal Company up to the date or dates on which they reversed their thinking. Consequently, entirely opposite "accepted accounting standards" in regard to depreciation, which this bill will restore, had been followed by the Company up to fiscal year 1974.

The administration's arguments are totally unsound in every way.

Mr. Speaker, inasmuch as the increase in tolls collected for the depreciation henceforth forbidden went into capital improvements benefiting all users of the canal, the committee makes clear in its report that no claim should be considered valid which seeks a return or credit on the portion of tolls levied to meet such costs in fiscal year 1974 through 1976.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Missouri (Mrs. SULLIVAN) that the House suspend the rules and pass the bill H.R. 14311, as amended.

The question was taken.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 3 of rule XXVII and the prior announcement made by the Chair, further proceedings on this motion will be postponed.

Does the gentleman from Minnesota withdraw his point of order that a quorum is not present?

Mr. FRENZEL. Mr. Speaker, I do.

GENERAL LEAVE

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just under consideration, H.R. 14311.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

COMMUNICATIONS ACT AMENDMENT—COMMON CARRIER TARIFF PROCEEDINGS

Mr. VAN DEERLIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13961) to amend sections 203 and 204 of the Communications Act of 1934.

The Clerk read as follows:

H.R. 13961

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203(b) of the Communications Act of 1934 (47 U.S.C. 203(b)) is amended to read as follows:

"(b)(1) No change shall be made in the charges, classifications, regulations, or practices which have been so filed and published except after ninety days notice to the Commission and to the public, which shall be published in such form and contain such information as the Commission may by regulations prescribe.

"(2) The Commission may, in its discretion and for good cause shown, modify any requirement made by or under the authority of this section either in particular instances or by general order applicable to special circumstances or conditions except that the Commission may not require the notice period specified in paragraph (1) to be more than ninety days."

SEC. 2. Section 204 of the Communications Act of 1934 (47 U.S.C. 204) is amended to read as follows:

"SEC. 204. (a) Whenever there is filed with the Commission any new or revised charge, classification, regulation, or practice, the Commission may either upon complaint or upon its own initiative without complaint, upon reasonable notice, enter upon a hearing concerning the lawfulness thereof; and pending such hearing and the decision thereon the Commission, upon delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such charge, classification, regulation, or practice, in whole or in part but not for a longer period than five months beyond the time when it would otherwise go into effect; and after full hearing the Commission may make such order with reference thereto as would be proper in a proceeding initiated after such charge, classification, regulation, or practice had become effective. If the proceeding has not been concluded and an order made within the period of the suspension, the proposed new or revised charge, classification, regulation, or practice shall go into effect at the end of such period; but in case of a proposed charge for a new service or an increased charge, the Commission may by order require the interested carrier or carriers to keep accurate account of all amounts received by reason of such charge for a new service or increased charge, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require the interested carrier or carriers to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such charge for a new service or increased charges as by its decision shall be found not justified. At any hearing involving a charge increased, or sought to be increased, the burden of proof to show that the increased charge, or proposed charge, is just and reasonable shall be upon the carrier, and the Commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.

"(b) Notwithstanding the provisions of subsection (a) of this section, the Commission may allow part of a charge, classification, regulation, or practice to go into effect, based upon a written showing by the carrier or carriers affected, and an opportunity for written comment thereon by affected persons, that such partial authorization is just, fair, and reasonable. Additionally, or in combination with a partial authorization, the Commission, upon a similar showing, may allow all or part of a charge, classification, regulation, or practice to go into effect on a

temporary basis pending further order of the Commission. Authorizations of temporary new or increased charges may include an accounting order of the type provided for in subsection (a)."

The SPEAKER pro tempore. Is a second demanded?

Mr. FREY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. VAN DEERLIN) and the gentleman from Florida (Mr. FREY) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from California.

Mr. VAN DEERLIN. Mr. Speaker, I yield myself such time as I may consume.

(Mr. VAN DEERLIN asked and was given permission to revise and extend his remarks.)

Mr. VAN DEERLIN. Mr. Speaker, I move that the House suspend the rules and pass H.R. 13961, as amended. H.R. 13961 amends sections 203 and 204 of the Communications Act of 1934, and is a modified version of legislation proposed by the Federal Communications Commission at the request of the former chairman of the Subcommittee on Communications, the late Torbert H. Macdonald. It addresses his concern, and the concern of consumer advocates and the Commission itself, that current statutory procedures governing FCC disposition of tariff filings by communications common carriers are seriously inadequate.

Presently, the Communications Act requires that no tariff may be changed on less than 30 days' written notice, unless the Commission rules otherwise. The FCC has extended this to 60 days in the case of tariff increases. In this period, the Commission must decide whether to allow the tariff to go into effect or to suspend its effective date for up to 3 months pending Commission investigation of the reasonableness of the tariff revision.

Due in part to the procedural requirements of the Administrative Procedures Act, in part to the complexity of modern tariff filings, and in part to inadequacies in the Commission's handling of tariff proposals, neither the notice nor the suspension periods has proved adequate. As a result, tariffs have gone into effect which are later found to be unlawful in some respect. The accounting and refund provisions of the act are inadequate as a protection against unreasonable rates in this situation, because they are expensive to implement and offer little or no protection against discrimination within the rate structure—important, for example, in the presence of allegations of predatory pricing.

The committee notes with approval a recent decision of the FCC to require that the accounts be kept by consumer class, rather than by individual consumer. While this practice enhances the utility of the accounting order procedure by reducing the administrative costs associated with it, it is inadequate in and of itself to meet the problems I have alluded to.

The Commission proposed that the notice period be extended to 90 days, and that the maximum allowed suspension period be lengthened from 90 days to 9 months. The committee has found that the 90-day notice period is needed, but has included language denying to the Commission any authority to extend it further. However, in accordance with a compromise reached between the Office of Telecommunications Policy and the FCC, and agreed to by the Senate, the committee has extended the maximum suspension period only from 90 days to 5 months. It is our judgment that this period reasonably balances a commitment to consumer protection against any tendency of increased time periods to promote regulatory lag. I want to stress that the maximum time period should be required only in the case of major tariff filings. Most tariff filings can and should be acted on in a shorter period.

H.R. 13961 would also allow the Commission to make partial or temporary tariff authorizations. This would greatly increase the Commission's flexibility in dealing with tariff filings, some of which involve many common carrier services. In this way, the committee hopes to see some reduction in the time required for disposition of tariff filings. To the extent that a portion of the proposed rate change is clearly justified, this provision would allow the Commission to grant it immediately without awaiting the outcome of a hearing on the controversial aspects of the tariff filing. It is contemplated that the Commission would use this authority in conjunction with an increased notice period to conduct preliminary hearings on tariff filings in the hope that many issues can be resolved at this stage, thus avoiding the need for a lengthy suspension and hearing.

Finally, H.R. 13961 extends the range of tariff filings for which the Commission may prescribe accounting orders by including tariff filings for new services.

This legislation will significantly improve the regulatory process. It is in the consumers' interest, and should be enacted.

Mr. FREY. Mr. Speaker, I yield myself such time as I may consume.

(Mr. FREY asked and was given permission to revise and extend his remarks.)

Mr. FREY. Mr. Speaker, I rise in support of H.R. 13961, a bill that provides for realistic time periods for communications common carriers to notify the FCC and the public or proposed tariff changes and for the FCC to suspend proposed tariff changes.

While this is a simple bill in form, its substance has major effects on the common carrier industry and the FCC.

By increasing the notice period for common carrier tariff filings from 30 to 90 days and limiting the FCC authority to extend beyond that period, the bill addresses two problems. The FCC contends that the current 30-day period is too short to allow for an adequate review of a tariff filing that may entail hundreds, and even thousands, of pages of supporting data. Therefore, the FCC has extended the period for rate increases to 60 days, pursuant to its statutory authority. So that the FCC does not further extend the time period in such cases, the bill provides that the period may not be extended beyond 90 days. Our committee is of the opinion that a 90-day period will be sufficient in all cases.

Increasing the period in which the FCC may suspend new or revised tariffs from 3 to 5 months addresses an FCC problem in being unable to complete complicated tariff proceedings in 3 months. The FCC had originally sought an extension of the time period to 9 months, a period that I felt was too long. I realize that to allow a tariff to go into effect after 3 months and to later disallow it may result in the loss of purchasing power by consumers, as well as costly accounting and refund procedures after the period of suspension. At the same time, I feel it unwise to deny necessary revenue to the industries for as long as a 9-month period.

The FCC and OTP agreed upon a 5-month period, and I offered an amendment to that effect in subcommittee markup. I believe this time period balances both the consumer interest and revenue requirements of the industry.

As I mentioned, after a suspension period expires, but before the FCC completes action on a tariff increase, the FCC may order the industry to maintain accounts so that refunds may be given to the consumer in the event the increase is ultimately denied in whole or in part. Although it does not appear in the legislation, our committee feels that such accounts and refunds should be made by classes of users rather than by individual consumers. Otherwise, the administrative costs will eat away any refund the consumer may realize.

Finally, the bill allows the FCC to order temporary or partial tariff changes in order to avoid much of the regulatory delay involved when all aspects of a tariff change are explored before ordering a change. Hopefully, this provision will help streamline the process.

Mr. Speaker, this is one bill concerning the telephone industry with which we can all agree. It would be nice if they were all this easy.

Mr. VAN DEERLIN. Mr. Speaker, I yield such time as he may consume to the able chairman of our full committee, the gentleman from West Virginia (Mr. STAGGERS).

(Mr. STAGGERS asked and was given permission to revise and extend his remarks.)

Mr. STAGGERS. Mr. Speaker, I rise in support of H.R. 13961, a bill to require a 90-day notice period before common carrier tariffs may be changed, and to allow the Federal Communications Commission to suspend new or revised tariff schedules for up to 5 months.

Section 1 of the bill would extend from 30 days to 90 days the period of notice required before a tariff may be changed.

Section 2 of the bill would extend from 3 months to 5 months the period during which the Federal Communications

Commission may suspend new or revised tariff schedules and authorize the Commission to conduct preliminary written proceedings to determine whether a tariff filing should become effective in whole or in part pending a hearing and decision on the lawfulness thereof, or whether temporary authorization of a tariff filing should be permitted.

The bill is a clean bill from the Communications Subcommittee. The original bill considered by the subcommittee was H.R. 7047 which was drafted and requested by the FCC.

The Senate Commerce Committee ordered reported a similar bill (S. 2054) and the Senate passed it on May 27, 1976. This is a bill that warrants our consideration, and I urge the Members of the House to unanimously pass this bill.

Mr. VAN DEERLIN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. VAN DEERLIN) that the House suspend the rules and pass the bill H.R. 13961.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. VAN DEERLIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk a similar Senate bill, S. 2054, to amend section 203 and 204 of the Communications Act of 1934, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2054

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 203(b) of the Communications Act of 1934 (47 U.S.C. 203(b)) is amended to read as follows:

"(b) No change shall be made in the charges, classifications, regulations, or practices which have been so filed and published except after 90 days notice to the Commission and to the public, which shall be published in such form and contain such information as the Commission may by regulations prescribe; but the Commission may, in its discretion and for good cause shown, allow changes upon less than the notice herein specified or modify the requirements made by or under authority of this section either in particular instances or by a general order applicable to special circumstances or conditions."

SEC. 2. Section 204 of the Communications Act of 1934 (47 U.S.C. 204), is amended to read as follows:

"SEC. 204. (a) Whenever there is filed with the Commission any new or revised charge, classification, regulation, or practice, the Commission may either upon complaint or upon its own initiative without complaint, upon reasonable notice, enter upon a hearing concerning the lawfulness thereof; and pending such hearing and the decision thereon the Commission, upon delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such charge, classification, regulation, or practice, in whole or in part but not for a longer period than 5 months beyond the time when it would otherwise go into effect; and after full hearing the Commission may make such order with reference thereto as would be proper in a proceeding initiated after such charge, classification, regulation, or practice had become effective. If the proceeding has not been concluded and an order made within the period of the suspension, the proposed new or revised charge, classification, regulation, or practice shall go into effect at the end of such period; but in case of a proposed charge for a new service or an increased charge, the Commission may by order require the interested carrier or carriers to keep accurate account of all amounts received by reason of such charge for a new service or increased charge, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require the interested carrier or carriers to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such charge for a new service or increased charges as by its decision shall be found not justified. At any hearing involving a charge increased, or sought to be increased, the burden of proof to show that the increased charge, or proposed increased charge, is just and reasonable shall be upon the carrier, and the Commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.

"(b) Notwithstanding the provisions of subsection (a) of this section, the Commission may allow part of a charge, classification, regulation, or practice, to go into effect, based upon a written showing by the carrier or carriers affected, and an opportunity for written comment thereon by affected persons, that such partial authorization is just, fair, and reasonable. Additionally, or in combination with a partial authorization, the Commission, upon a similar showing, may allow all or part of a charge, classification, regulation, or practice to go into effect on a temporary basis pending further order of the Commission. Authorizations of temporary new or increased charges may include an accounting order of the type provided for in subsection (a)."

MOTION OFFERED BY MR. VAN DEERLIN

Mr. VAN DEERLIN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. VAN DEERLIN moves to strike out all after the enacting clause of the Senate bill S. 2054 and to insert in lieu thereof the provisions of H.R. 13961, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 13961) was laid on the table.

GENERAL LEAVE

Mr. VAN DEERLIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR AN ELECTIVE GOVERNOR AND LIEUTENANT GOVERNOR OF AMERICAN SAMOA

Mr. PHILLIP BURTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14291) to provide for an elective Governor and Lieutenant Governor of American Samoa, and for other purposes.

The Clerk read as follows:

H.R. 14291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution entitled "Joint resolution to provide for accepting, ratifying, and confirming the cessions of certain islands of the Samoan group to the United States, and for other purposes", approved February 20, 1929 (45 Stat. 1253; 48 U.S.C. 1661) is amended by striking out "Until" in subsection (c) of the first section, and inserting in lieu thereof "Except as provided under section 2, until", and by adding at the end thereof the following new section:

"SEC. 2. (a) The President of his designee shall appoint an election commissioner who shall be responsible for the planning, the preparation for, and the holding of a plebiscite, in which the voters of American Samoa shall vote 'Yes' or 'No' on the following question: 'Do the people of American Samoa want an elected Governor and Lieutenant Governor?'

"(b) Subject to the provisions of subsection (a) of this section, the plebiscite shall be held during the year 1978.

"(c) Upon certification by the President or his designee that the valid number of 'Yes' votes cast exceed the valid number of 'No' votes cast in the plebiscite, the President or his designee shall cause the first gubernatorial election in American Samoa to be held within one year after the plebiscite.

"(d) The legislature of American Samoa, by joint resolution, shall establish rules and procedures for the nomination of candidates, the terms of office, the qualifications for office, and the removal of the Governor and Lieutenant Governor: *Provided,* That such rules and procedures shall include provisions for the nomination of candidates by lawful petition in accordance with rules established by local statute, which rules shall provide that any person otherwise eligible to be a candidate shall not be precluded from nomination for reasons of absence from American Samoa if such absence occurred in connection with the armed services or any other agency or instrumentality of the governments of the United States and American Samoa or while in pursuit of his or her education: *And provided further,* That no person who serves as the incumbent either as an appointed Governor or Lieutenant Governor, upon or after enactment of this section, shall be eligible as a candidate for election to the office of Governor or Lieutenant Governor in the first gubernatorial election of American Samoa.

"(e) The duly elected Governor and Lieutenant Governor shall have such powers, duties, and responsibilities as may be delegated from time to time by the President or his designee."

The SPEAKER pro tempore. Is a second demanded?

Mr. DON H. CLAUSEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. PHILLIP